
HOUSE BILL No. 1575

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-18.7.

Synopsis: Elimination of duplicate property tax levies. Prohibits two or more taxing units from imposing property tax levies in a taxing district for the same type of service. Extends the period during which taxing units may publish notices, hold hearings, and adopt tax levies, tax rates, and budgets.

Effective: Upon passage.

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January 22, 2009, read first time and referred to Committee on Government and Regulatory Reform.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1575

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-18.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 18.7. Elimination of Duplicate Property Tax Levies**

5 **Sec. 1. This chapter applies to property taxes imposed for an**
6 **assessment date occurring after January 15, 2009.**

7 **Sec. 2. Except as provided in this chapter, not more than one (1)**
8 **taxing unit may impose a property tax on property in a taxing**
9 **district to provide revenue for:**

10 (1) the exercise or financing of; or

11 (2) the operation, maintenance, or financing of property used
12 for;

13 the same type of service.

14 **Sec. 3. A taxing unit shall take one (1) or more of the following**
15 **actions so that only one (1) taxing unit imposes a property tax in**
16 **the taxing district for the same type of service:**

17 (1) Enter into cooperative agreements, interlocal agreements,

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or other agreements permitted by law.

(2) Transfer assets, personnel, and operations to another taxing unit.

(3) Exclude a taxing district from the area in which the taxing unit imposes a property tax, if another taxing unit assumes responsibility to provide a similar type of service and imposes a property tax in the taxing district that is sufficient to maintain at least a similar level of service in the taxing district.

(4) Terminate services.

(5) Take any other action permitted by law.

Sec. 4. (a) This section applies to any of two (2) or more taxing units:

(1) that are in existence on March 1, 2009; and

(2) that have or, as a result of an annexation or other event, will after 2009 have the power to impose a property tax in a taxing district to provide revenue for:

(A) the exercise or financing of; or

(B) the operation, maintenance, or financing of property used for;

the same type of service.

(b) As used in this section, "reviewing body" refers to:

(1) the county board of tax adjustment for the county where a taxing district is located, if a county board of tax adjustment exists in the county; or

(2) the county fiscal body of the county, if the county does not have a county board of tax adjustment.

(c) Before September 1, 2009, the fiscal officer of a taxing unit shall file a written plan with the reviewing body for a taxing district describing the actions that the taxing unit proposes to take to bring the taxing unit into compliance with section 2 of this chapter. The plan may cover more than one (1) taxing district and may be jointly filed with one (1) or more other taxing units.

(d) Before the plan of a taxing unit is filed under this section:

(1) the taxing unit shall:

(A) publish notice of a public hearing on the plan in the manner prescribed by IC 5-3-1; and

(B) hold a public hearing on the plan; and

(2) the plan must be approved by the fiscal body of the taxing unit.

Two (2) or more taxing units may conduct a joint hearing under this subsection.

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(e) The reviewing body shall review each plan submitted under this section. The reviewing body may conduct the hearings on the plan that the reviewing body determines to be appropriate. The reviewing body shall adopt a final order that:

- (1) approves;
- (2) approves with revisions; or
- (3) denies and substitutes a revised plan for;

each plan submitted under this section. The final order must implement the requirements in section 2 of this chapter. Subject to this chapter, the reviewing body shall determine all issues incidental to a determination under this section. If a taxing unit fails to file a proposed plan with the reviewing body before September 1, 2009, the reviewing body shall adopt a final order establishing a plan for the taxing unit.

(f) The reviewing body shall deliver a final order issued under this section to the fiscal officer of each affected taxing unit before October 1, 2009. A copy of the final order must be sent to:

- (1) the county auditor of each county where an affected taxing unit is located;
- (2) the department of local government finance; and
- (3) each city or county fiscal body that is required to review the affected taxing unit's levies, tax rates, and budgets under IC 6-1.1-17-20 or IC 36-3-6-9 (if any).

(g) A final order issued under this section is binding on the affected taxing units and, subject to section 6 of this chapter, shall be the basis for imposing property taxes in the affected taxing district for assessment dates occurring after January 15, 2009.

Sec. 5. Notwithstanding IC 6-1.1-17 and any other law, statutory deadlines that would otherwise apply in 2009 for:

- (1) submitting a budget proposal to the fiscal body of a taxing unit;
- (2) advertising of proposed tax levies, tax rates, and budgets;
- (3) filing an appeal for an excessive property tax levy or the approval of a cumulative fund levy;
- (4) conducting a hearing on proposed tax levies, tax rates, and budgets;
- (5) adopting proposed tax levies, tax rates, and budgets;
- (6) reviewing or approving the tax levies, tax rates, and budgets adopted by another taxing unit before submission of the adopted tax levies, tax rates, and budgets to the department of local government finance;
- (7) advertising by the county auditor of the reviewed or

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approved tax levies, tax rates, and budgets of a taxing unit;
and

(8) taking other actions related to the adoption of tax levies,
tax rates, and budgets;

are extended sixty (60) days. The fiscal body of a taxing unit must
adopt tax levies, tax rates, and a budget under IC 6-1.1-17-5 not
later than November 30, 2009. The adopted tax levies, tax rates,
and a budget must implement section 2 of this chapter and the plan
approved for the taxing unit under section 4 of this chapter. This
section does not extend the date by which the department of local
government finance must certify tax levies, tax rates, and budgets
under IC 6-1.1-17-16.

Sec. 6. (a) This section applies to a taxing unit that:

(1) proposes to initially impose a property tax in a particular
taxing district for an assessment date after January 15, 2010;
or

(2) seeks to amend a plan previously reviewed by a reviewing
body under this chapter.

(b) As used in this section, "reviewing body" has the meaning
set forth in section 4 of this chapter.

(c) The fiscal officer of a taxing unit may petition the reviewing
body to modify the plans previously approved by the reviewing
body. The petition must:

(1) indicate the plan changes that the taxing unit proposes;
and

(2) describe how the taxing unit will comply with section 2 of
this chapter.

The petition must be filed with the reviewing body before July 1 in
a year. A copy of the petition must be sent to each affected taxing
unit.

(d) Before the fiscal officer of a taxing may file a petition for the
modification of plans previously approved under this section:

(1) the taxing unit shall:

(A) publish notice of a public hearing on the proposed
petition in the manner prescribed by IC 5-3-1; and

(B) hold a public hearing on the modifications set forth in
the proposed petition; and

(2) the proposed modifications must be approved by the fiscal
body of the taxing unit.

Two (2) or more taxing units may conduct a joint hearing under
this subsection.

(e) The reviewing body shall review each petition submitted

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under this section. The reviewing body may conduct the hearings on the petition that the reviewing body determines to be appropriate. The reviewing body shall adopt a final order that:

- (1) approves the modifications proposed in the petition;
- (2) approves the modifications proposed in the petition with revisions; or
- (3) denies the petition;

for each petition filed under this section. The final order must implement the requirements in section 2 of this chapter. Subject to this chapter, the reviewing body shall determine all issues incidental to a determination under this section.

(f) The reviewing body shall deliver a final order issued under this section to the fiscal officer of each affected taxing unit before October 1, 2009. A copy of the final order must be sent to:

- (1) the county auditor of each county where an affected taxing unit is located;
- (2) the department of local government finance; and
- (3) each city or county fiscal body that is required to review a taxing unit's levies, tax rates, and budgets under IC 6-1.1-17-20 or IC 36-3-6-9 (if any).

(g) A final order issued under this section is binding on the affected taxing units and shall be the basis for imposing and certifying property taxes in the affected taxing districts for assessment dates occurring after January 15 immediately following the date the petition is filed.

Sec. 7. A county, city, or town fiscal body reviewing or approving bonds or leases under IC 6-1.1-17-20.5, IC 36-3-6-9, or another law must review and approve bonds or leases in a manner that implements section 2 of this chapter.

Sec. 8. The following shall approve or certify property tax levies, tax rates, and budgets under IC 6-1.1-17 and IC 36-3-6-9 in a manner that implements section 2 of this chapter and the final orders issued under sections 4 and 6 of this chapter:

- (1) A county board of tax adjustment.
- (2) A county fiscal body.
- (3) A city or town fiscal body reviewing the property tax levies, tax rates, and budgets of another taxing unit.
- (4) The department of local government finance.

Sec. 9. A property tax that does not comply with section 2 of this chapter or a final order issued under section 4 or 6 of this chapter is void.

Sec. 10. Section 2 of this chapter shall be applied in conformity

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with the provisions in sections 11 through 20 of this chapter.

Sec. 11. Except as provided in section 12 of this chapter, a power granted under any law to permit or require a taxing unit to:

(1) impose a property tax for an assessment date after January 15, 2009; or

(2) issue bonds or enter into leases after April 30, 2009; shall be construed to permit an action only to the extent that the action does not violate section 2 of this chapter.

Sec. 12. An action may not be taken under this chapter if the action would impair the contractual rights of holders of bonds issued or a lease entered into before May 1, 2009. However, any reduction in tax increment revenues (as defined in IC 6-1.1-21.2-10) that would otherwise impair contractual rights of holders of bonds issued or a lease entered into before May 1, 2009, shall be remedied in conformity with IC 6-1.1-21.2. Any part of a levy that is not subject to the contractual agreement must comply with section 2 of this chapter and the final orders issued under sections 4 and 6 of this chapter.

Sec. 13. A final order issued under section 4 or 6 of this chapter may authorize a transfer of a part of the maximum permissible levy or maximum permissible tax rate that a taxing unit is permitted by law to impose to implement section 2 of this chapter. A maximum permissible levy or maximum permissible tax rate transfer must be conditioned upon the continued delivery of the services being transferred. The powers granted under this section do not authorize a change in the manner credits are calculated under IC 6-1.1-20.6.

Sec. 14. (a) Subject to subsection (b), if requested by the affected taxing units, a final order issued under section 4 or 6 of this chapter may authorize the allocation to a political subdivision of any of the following on a different formula from the formula specified by statute:

- (1) Financial institution excise tax revenue (IC 6-5.5).
- (2) Motor vehicle excise taxes (IC 6-6-5).
- (3) Commercial vehicle excise taxes (IC 6-6-5.5).
- (4) Boat excise tax (IC 6-6-11).
- (5) Aircraft excise tax (IC 6-6-6.5).
- (6) County adjusted gross income taxes (IC 6-3.5-1.1).
- (7) County option income taxes (IC 6-3.5-6).
- (8) County economic development income taxes (IC 6-3.5-7).

(b) Local income taxes that are designated under IC 6-3.5 for homestead credits or property tax replacement credits must be

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used as to provide homestead credits or property tax replacement credits for property tax.

(c) If a different formula is approved in a final order issued under section 4 or 6 of this chapter, the county auditor shall distribute the amounts subject to the order in the manner specified in the order.

Sec. 15. For purposes of this chapter, a property tax shall be treated as imposed for a particular service if the property tax is:

- (1) expressly imposed for the service; or
- (2) deposited in a fund from which expenditures for the service are paid, regardless of whether property taxes are commingled with other money to make the payments.

Sec. 16. If a property tax is imposed for:

- (1) more than one (1) service; or
 - (2) a fund that is used to pay for more than one (1) service;
- section 2 of this chapter applies only to the part of the property tax levy that is attributable to a service that is subject to section 2 of this chapter. The property tax levy is subject to reduction in proportion to the expenditures made from the property tax levy for the particular service relative to all of the expenditures made from the property tax levy.

Sec. 17. For purposes of this chapter, services provided by two (2) or more taxing units shall be treated as similar even if each taxing unit provides different levels of service to or in a taxing district.

Sec. 18. For purposes of this chapter, services provided by two (2) or more taxing units shall be treated as similar to the extent that they are within the scope of the general powers described in the same section of the Indiana Code codified in any of the following chapters, regardless of whether the taxing unit is a unit (as defined in IC 36-1-2-23) and regardless of whether the taxing unit provides the service under that section of law or another law:

- (1) IC 36-7-2.
- (2) IC 36-8-2.
- (3) IC 36-9-2.
- (4) IC 36-10-2.

Sec. 19. A reviewing body (as defined in section 4 of this chapter) may determine that services other than those described in section 15 of this chapter are similar services for which not more than one (1) taxing unit may impose a property tax in the same taxing district.

Sec. 20. A reviewing body may treat the maintenance and

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1 operation of jails, juvenile detention facilities, juvenile detention
2 centers, and other detention facilities as a service that is separate
3 from other police and law enforcement system services solely for
4 the purpose of permitting one taxing unit to impose a property tax
5 in a taxing district for the establishment, maintenance, and
6 operation of jails, juvenile detention facilities, juvenile detention
7 centers, and other detention facilities while another taxing unit
8 imposes a property tax in the same taxing district for other police
9 and law enforcement system services.

10 SECTION 2. An emergency is declared for this act.

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